

REMARKS

Claims 16, 48, 49, and 52 have been canceled without prejudice.

Claims 1, 38, and 41-43 have been amended to delete the phrase “wherein the immunogen is not an antibody.” Claim 43 has also been amended to add the phrase “an immunogen conjugated to a folate receptor-binding ligand selected from the group consisting of folate and analogs thereof,” and to delete the phrase “ligand-immunogen conjugate.” Support for the amendments to claim 43 can be found throughout the specification, for example, on page 10, lines 21-22 of the specification. Minor amendments have also been made to claims 38, 41, and 42.

Applicants made the same claim amendments as made herein in Applicants’ response filed on May 3, 2004, but the amendments were not entered by the Examiner. Applicants have responded to the Examiner’s rejections in the final office action mailed on January 1, 2004 in Applicants’ response filed on May 3, 2004.

The Examiner rejected pending claims 1, 8-10, 13, 18-38, 41-46, and 50-51 under 35 U.S.C. § 112, ¶ 1 in the final office action. In the Examiner’s Advisory Action, mailed on June 25, 2004, the Examiner stated that “[t]he cancellation of the limitation “wherein said immunogen is not an antibody” would overcome the rejection under 112, first paragraph for new matter, but would result in the re-applying of the 102(b) rejection as being anticipated by Roy et al.” Claims 1, 8-10, 13, 18-38, 41-46, and 50-51 have now been amended to delete the phrase “wherein the immunogen is not an antibody” in an attempt to respond to the Examiner’s rejection under 35 U.S.C. § 112, ¶ 1. Although the rejected claims have been amended, Applicants do not acquiesce to the Examiner’s reasons for rejection.

In the office action mailed on March 21, 2003 (the office action prior to the final office action), the Examiner rejected claims 1-8, 13, 26, 36, 43, and 47 under 35 U.S.C. § 102(b) over Roy et al. Claims 1, 4-5, 8, 13, 26, 36, 43, and 47 remain pending. Roy et al. discloses a method of targeting tumor cells using a ligand-Fv fragment conjugate where the

Fv fragment is a small, single-chain antibody fragment directed to the T-cell receptor. The Fv fragment binds T cells and localizes T cells to the site of the tumor. As stated on page 13, line 24 of the March 21, 2003 office action, the Examiner's rejection was based on the argument that the anti-T cell receptor antibody disclosed in Roy et al. is an immunogen.

Applicants respectfully traverse the Examiner's argument. If the small, single-chain Fv fragment disclosed in Roy et al. was an immunogen, the method disclosed in Roy et al. would be inoperable. The single-chain Fv fragment in the ligand-Fv fragment conjugate disclosed in Roy et al. must bind T cells to localize T cells to the site of the tumor for the method disclosed in Roy et al. to be operable. If the Fv fragment was an immunogen, antibodies directed to the Fv fragment would bind to that fragment and block T cell binding. Thus, the basis for the Examiner's rejection in the March 21, 2003 office action would result in the method disclosed in Roy et al. being inoperable. Accordingly, Applicants respectfully request that the Examiner not reapply the rejection of claims 1, 4-5, 8, 13, 26, 36, 43, and 47 over Roy et al.

CONCLUSION

The foregoing amendments and remarks are believed to place the claims in condition for allowance. Applicants respectfully request allowance of the claims, and passage of the application to issuance.

Respectfully submitted,



Rebecca L. Ball
Registration No. 46,535
Attorney for Applicants

RVB:wlb
(317) 231-7511
Indianapolis, Indiana 46204